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In the Supreme Court

OF THE

United States

OCTOBER TERM, 1980

WAYNE MINNICK, HENRY J. DARDEN, CALIFORNIA CORRECTIONAL OFFICERS ASSOCIATION,
Petitioners,

vs.

CALIFORNIA DEPARTMENT OF CORRECTIONS, et al.,
Respondents.

On Writ of Certiorari to the California Court of Appeal, First Appellate District

JOINT APPENDIX

PETITION FOR CERTIORARI FILED FEBRUARY 6, 1980

CERTIORARI GRANTED JULY 2, 1980

BOWNE-PERNAU WALSH • 1045 SANSOME ST. • S.F., CA 94111 • (415) 981-7682

TABLE OF CONTENTS

	Page
Health and Welfare Agency, Memorandum	1
Affirmative Action Program	3
Roles and Responsibilities	5
The Director of Corrections	5
Deputy Directors, Assistant Directors, Division Chiefs	6
The Assistant Director, Women's Affairs	7
Managers & Supervisors	8
Supervisor, Human Relations Section	8
Affirmative Action Representatives	10
Human Relations Committees	12
Detailed Affirmative Plan	15
Administrative	15
Ethnic Balance and Equal Representation of Female Staff	16
Support Category	17
Client Serving Categories	18
Objective-Oriented Programs	20
Recruitment, Selection, Referral, and Testing	20
Record Keeping and Reporting Systems	22
Compensation	23
Supervision	24
Training	25
Communication	26
Summary of Work Force Analysis	28
Sex	31
Statistics of Ethnic Origins and Sex Distribution of California Department of Corrections Personnel	35
Scope and Source of Data	35
Ethnic Origin	36

TABLE OF CONTENTS

	Page
Sex Distribution	38
Assignment by Ethnic Origin	42
Assignment and Sex by Ethnic Origin	44
Sex and Facility	48
Salary by Ethnic Origin	50
Occupational Category by Ethnic Origin	54
Occupational Category by Sex	58
Appointments and Separations by Ethnic Origin and Sex	62
Promotions by Ethnic Origins and Sex	64
Summary of Department of Justice Guidelines for Law Enforcement Agencies	66
Guidelines for Law Enforcement Agencies	69
Governor's Memo	84

Health and Welfare Agency
State of California

MEMORANDUM

Date: July 1, 1974

Subject: Department of Corrections' Affirmative Action Plan

From: Department of Corrections
Sacramento, California 95814

Attached is the Affirmative Action Plan for the Department of Corrections. This plan is developed in compliance with the Equal Employment Opportunity Act of 1972, according to guidelines established by the United States Department of Justice for all law enforcement and correctional agencies.

I expect your full cooperation and commitment to the implementation of this Plan in the true spirit of the law. The objectives, goals and time frame herein reflect the LEAA formula for work force parity—they are realistic and obtainable.

The California Department of Corrections' Affirmative Action Plan is effective July 1, 1974 with a target date for obtaining the established goals by June 30, 1979. It is required that the Departmental Affirmative Action Plan be supplemented by plans developed within each institution and parole region utilizing LEAA guidelines. Said plans should be submitted to Central Office by September 1, 1974.

Should you have any questions regarding the implementation of this Plan and/or need assistance developing your plan, contact Mr. E. L. Bullock, Supervisor, Human Relations Section.

/s/ R. K. Procunier
R. K. PROCUNIER
Director of Corrections

Attachment

cc: Regional Administrators
Executive Staffff

[1] California Department of Corrections

AFFIRMATIVE ACTION PROGRAM

June 30, 1974

It is the policy of the Department of Corrections to provide equal employment opportunities for all persons on the basis of merit and fitness and to prohibit discrimination based on race, sex, color, religion, national origin, or ancestry in every aspect of personnel policy and practices in the employment, career development, advancement and treatment of employees.

In order to insure compliance with equal employment opportunity laws and departmental policy, a revised, formal Affirmative Action Program has been developed for immediate implementation. Specific actions required by this plan will include:

A. Increase the number of minorities and women employees at all levels by implementing programs for recruiting, selecting, hiring, and promoting minorities and women.

B. Establish a monitoring system of all employment practices related to the employment of women and minorities.

C. Establish specific goals, timetables and records for measuring success or failure in complying with laws of non-discrimination.

D. Provide in-service training that will develop a sensitivity in staff to recognize and positively deal

with discriminatory practices, and provide training for women and minority employees that will assure their full participation at all levels of employment.

E. Insure that all employees have equal employment opportunities and equal treatment.

F. Insure that each institution, parole region and Central Office develop an Affirmative Action Plan that is in keeping with the departmental guidelines.

G. Insure that disciplinary action will be taken, as in any violation of major departmental policy in instances where Administrators or individuals give inadequate cooperation [sic] obstruct the goals of the program.

[2] The Director has placed responsibility for implementing and monitoring the Affirmative Action Program with the Supervisor, Human Relations Section and the Assistant Director, Womens Affairs. They will make regular reports to the Director as to departmental progress towards achieving the stated goals.

All employees of the Department of Corrections are expected to commit themselves to the accomplishment of the goals of the Affirmative Action Program.

[3] Attachment 1

California Department of Corrections

AFFIRMATIVE ACTION PROGRAM

Roles and Responsibilities

This section establishes general guidelines for the implementation of the Affirmative Action Program within the existing organizational structure and outlines roles and responsibilities at various levels of involvement in the program. Specific action steps relating to these roles appear in the Affirmative Action Plan.

A. *The Director of Corrections*

Primary responsibility for the Affirmative Action Program rests with the Director of Corrections. The Director will:

1. Approve said policy and establish the general climate for program activity.

2. Support the drive for positive implementation by delegation of authority, organization and resource allocation.

3. Review and analyze the impact of departmental policy and directives, and plans to overcome identified problems.

4. Evaluate overall program effectiveness and hold subordinate managers and program staff accountable for results.

B. *Deputy Directors, Assistant Directors, Division Chiefs*

Deputy Directors, Assistant Directors and Division Chiefs will be accountable for the effectiveness and results of the program within their line-operations or divisions. They will insure departmental policy and practices, as they relate to the Affirmative Action Program, are understood, and compliance by line-operation and division staff. Each Deputy Director, Assistant Director and Division Chief will assign an Administrator, who will with the assistance of the Human Relations Sections and the Assistant Director, Womens Affairs:

1. Analyze the work force of his or her line-operation or division to identify jobs and units where minorities and women are underutilized.

2. Develop and implement an Affirmative Action Plan for his or her administrative unit to correct [4] identified deficiencies through specific, measurable, attainable hiring and promotional goals with target dates in each area of underutilization. The line-operation plan will be augmented by local plans. Each institution and parole region, with assistance from the Human Relations Section, will develop individual plans based on an evaluation of their work force. The Deputy Director will review and approve the plan for his respective line-operation.

3. Assure that each manager within the division is responsible and accountable for meeting specific goals.

4. Develop and implement upward mobility potential of minorities and women.

5. Develop a reporting system to monitor and measure progress at least quarterly. If the results are not satisfactory to meet goals, find out why and take necessary corrective action.

C. *The Assistant Director, Womens Affairs*

The Assistant Director, Womens Affairs, under the direct supervision of the Director of Corrections, shall have authority and responsibility for the following duties:

1. Develop policies and assist in implementing equal participation of women in the programs and goals of the Department of Corrections.

2. With the Human Relations Supervisor, provide the apparatus necessary for the identification, collection and analysis of the data needed to monitor the implementation of the Affirmative Action Program for women in areas such as recruitment, selection, job assignment, promotion, pay, and terminations.

3. Establish positive liaison and communication with all levels of staff including the Human Relations Supervisor, Human Relations Committees, and Affirmative Action Representatives.

4. Provide, for women employees, a channel of communication and link to the Director should the normal modes of grievance fail, insuring women's viable participation as employees.

5. Coordinate, assist in implementing and promoting training of all staff in the Department's goals and policies regarding women while providing opportuni-

ties for increased understanding of the needs and rights of women employees.

[5] 6. Assure that an atmosphere is created and opportunities provided for women employees to participate in all areas of training, including management development and in career development assignments.

D. *Managers and Supervisors*

All management levels, including first-line supervisors, must provide program support and take every positive action necessary to assure and advance equal opportunity at their respective level.

1. Insure that all persons are given full equal opportunity and treatment in placement, training, work assignments, transfers and other personnel actions.

2. Take action as needed in such areas as realignment of job duties for staff development, assessment of training needs, and use of work assignments to improve employment and promotional opportunities for minorities and women.

3. Know the purpose, goals, and objectives of the Affirmative Action Program, and coordinate actions with the Human Relations Section, Central Office, and the Assistant Director, Womens Affairs.

E. *Supervisor, Human Relations Section*

The Supervisor, Human Relations Section, under the direct supervision of the Assistant Director, Personnel Management, and Training Division, shall have authority and responsibility for the following duties:

1. Provide active staff leadership in the development and implementation of the Affirmative Action Program.

2. Develop policy statements and prepare goals, procedures, regulations, and reports for the department's Affirmative Action Program.

3. Provide guidance and assistance to the institutional and parole division Human Relations Committees relative to their role in the Affirmative Action Program, and maintain ongoing communication with the Affirmative Action Representative.

4. Serve with the Assistant Director, Womens Affairs as liaison between the department and compliance agencies, minority organizations, women's organizations, and community action groups concerned with employment opportunities for minorities and women.

5. Coordinate the department's participation in manpower programs as they relate to the hiring of new staff.

[6] 6. Provide information, guidance, and assistance to local Administrators and related personnel on Affirmative Action and developing recruiting plans.

7. Provide assistance to the Departmental Training Officer and local Training Officers in developing training relative to human relations and affirmative action.

8. Review the department's programs and procedures related to personnel activities and make recom-

mendations for any changes necessary to remove barriers to attainment of equal employment opportunity.

9. Develop procedures with the Assistant Director, Womens Affairs for the receipt and the investigation of allegations and complaints by individuals, organizations, employees, or other third parties of discrimination on grounds of race, color, sex or national origin.

10. Provide for the exit interviews of all minority and female staff leaving the employment of the department.

11. Evaluate the effectiveness and sufficiency of the Affirmative Action Program and submit recommendations for improvement and correction where necessary. Report regularly to the Director on Affirmative Action.

F. *Affirmative Action Representatives*

Each division, institution, and parole region shall appoint an Affirmative Action Representative, no less than the Associate Superintendent or Parole Administrator I level, to assist the local administrators with the implementation of the Affirmative Action Plan.

The institutional and parole regional Affirmative Action Representatives will be seated on the existing Human Relation Committees as Exofficio Members. The duties in concert with the Human Relations Committees will include:

1. Maintaining continuous familiarity with conditions and circumstances affecting affirmative action within the department.

2. Providing active staff leadership to the program, especially in the development and implementation of the local Affirmative Action Plan.

3. Develop a recording system for management to monitor program effectiveness; make recommendations for change or improvement in their Affirmative Action Plan, personnel practices and other management [7] activities which have impact on the Affirmative Action Program.

4. Keeping management informed of affirmative action progress and problems, conditions in the community that affect employment and opportunities for management to take an even more active part in affirmative action activities.

5. Provide a point of contact for coordination and liaison between management and program staff, various organization units, special interest groups and organizations, community leaders, etc., to keep these groups informed and to assist in getting maximum impact through concerted activities, pooling of resources, etc.

6. Analyzing complaints of discrimination to identify problem areas and assist in their resolution through utilization of the existing grievance procedures or direct intervention.

7. Assist local Training Officers to develop and implement a well organized written recruitment plan for all job levels.

G. *Human Relations Committees*

Each institution and parole region shall establish a Human Relations Committee. The purpose of the Committee is to assist the Warden/Superintendent or Regional Administrator develop, implement and monitor his or her affirmative action program. The Committee will identify problems and accept staff grievances relative to race relations and sex discrimination, and make recommendations to the Warden/Superintendent or Regional Administrator for resolution of same. In order to enchance good employee relations, the Committee will focus on personnel intergroup relation problems that may ultimately have an adverse effect on the daily operation of the institution or parole region.

1. *Membership*

a. Number: minimum of nine members.

b. Minimum composition standard: 3 caucasians, 3 black and 3 spanish surnamed—at least 3 members being female.

1. The Warden/Superintendent or Regional Administrator may assign the members to represent any ethnic group of staff not mentioned above.

[8] 2. Should minimum composition standards be impossible due to insufficient number of staff in any of the above ethnic groups, positions reflecting that shortage should remain vacant until the minimum standard is met. No more than three (3) months should elapse before standards are met.

3. The Warden/Superintendent or Regional Administrator may add additional members as need dictates, however, membership should not exceed a maximum of 17, one-third of the Committee being female.

c. Structure

1. Group to elect officers.

2. Establish subcommittees as need dictates.

2. *Length of Term*

a. Membership should be a minimum of one year.

b. Terms should be staggered.

1. Some terms of initial membership may be less than one year in order to set the stagger.

2. The term for the first Chairman of the Committee should be at least one year.

3. *Authority*

Advisory to the Warden/Superintendent or Regional Administrator.

4. *Scope of Responsibility*

a. Identifying human relation problems and make appropriate recommendations to the Warden/Superintendent or Regional Administrator.

1. Individual and intergroup relationships.

2. Recruitment and retention of minority and female staff.

3. Exit interviews of all department minority and female staff.

4. Staff housing problems.

[9] 5. Identifying training needs for the development of minority and female staff.

6. Determine community related problems having a negative effect on institutional staffing and make appropriate recommendations.

b. All problems coming to the attention of the Human Relation Committees, that are of regular line responsibility will be reported to the Warden/Superintendent or Regional Administrator after:

1. Gathering of all factual information.

2. Attempts have failed to assist individual and/or individuals resolve their problem through the regular chain of command.

3. Recommendations for resolution have been formulated if the situation dictates.

If a problem cannot be resolved by the above process, said problem will be forwarded to the Director for review.

5. *Meetings*

a. Meet with the Warden/Superintendent or Regional Administrator monthly—more frequently as need dictates.

b. Chairmen to meet with Human Relations Consultants, Central Office, quarterly or more often as need dictates.

c. Chairmen to meet with the Director twice a year.

[10] Attachment II

California Department of Corrections

AFFIRMATIVE ACTION PROGRAM

Detailed Affirmative Plan

A. ADMINISTRATIVE

	Time Table	Responsibility	Target Date
1. *Objective* To make clear that the lines of authority and responsibility for administering the Affirmative Action Program do not differ from the existing departmental authority and lines of responsibility. The implementation of this program is not voluntary or optional, but a vital part of the regular job assignment of all administrative, management, supervisory, training, and personnel staff.	July 1, 1974 & continuous		
2. *Specific Action* Inform and interpret to all staff the departmental Affirmative Action Plan and the Director's policy relative to Affirmative Action.		Wardens/Superintendents Division Chiefs Regional Administrators	July 1, 1974 & continuous

B. ETHNIC BALANCE AND EQUAL REPRESENTATION OF FEMALE STAFF

1. *Objective*	Time Table	Responsibility	Target Date
To increase significantly the utilization of minorities and women across organizational units of the CDC and at all levels possible as vacancies occur.	July 1, 1974 & continuous		
[11] 2. *Specific Action*			
a. Develop recruitment plans and public relations activities with specific focus on minority communities, organizations, and women organizations, to inform them of career opportunities within CDC and the desire to employ minorities and women.		Human Relations Consultants Deptl. Training Officer Local Training Officers Local Affirmative Action Representatives HRC Committee Members	July 1, 1974 & continuous
b. Increase departmental efforts to employ minorities and women to achieve the percentages shown below per LEAA guidelines within five (5) years. "A significant disparity between minority representation in the service population and the minority representation in the Agency workforce may be deemed to exist if the percentage of a minority group in the employment of the Agency is not at least seventy (70) percent of that minority in the service population."			

	Time Table	Responsibility	Target Date
Evaluate the female representation in the Agency in comparison to women in the California labor force.			
1. To arrive at an overall of 36% minorities employed.			
2. To arrive at an overall of 38% women employed.*			
3. Proportional goals to obtain the above percentages shall occur as follows:			

[12] 2. *Specific Action*

	Non-Minorities	Minorities	
Male	40%	22%	= 62%
Female ...	24%	14%	= 38%
	64%	36%	

C. SUPPORT CATEGORY

The utilization of minorities and women in this category will be increased to obtain the goal of 36% respectively within the next five (5) years.

*Per California Labor Force, April, 1970

	Time Table	Responsibility	Target Date
1. *Objective* To increase the utilization of minorities and women within this category as available applicants can be recruited, certified or developed.	July 1, 1974 & continuous		
2. *Specific Action* Provide additional efforts to attract minorities and women to the following job categories.			July 1, 1974 & continuous
a. Administration		Assistant Director Personnel Mgt. & Training	
b. Professional		Division Chiefs	
c. Technical		Wardens/Superintendents	
d. Trade		Chief, Program Services	

[13] D. CLIENT SERVING CATEGORIES

The utilization of minorities and women in this category is equal to 22% minority and 6% women of total staff. Per LEAA guidelines, minority staff should comprise 36% of total staff and 38% of total staff should be women.

	Time Table	Responsibility	Target Date
1. *Objective* To increase the utilization of minorities and women in this category for vacancies and training opportunities leading to employment in this category.	July 1, 1974 & continuous		
2. *Specific Action* Increase employment efforts in the following categories for minorities and women:			
a. Teaching		Supervisors of Education	July 1, 1974 & continuous
b. Treatment		Associate Wardens/Supts. Regional Administrator	
c. Security		Associate Wardens/Supts.	
d. Chaplain		Wardens/Superintendents	
The Human Relations Section and the Assistant Director, Womens Affairs to be notified of all vacancies occurring in Central Office staff for the purpose of recruiting assistance.		Unit Supervisor	July 1, 1974 & continuous
[14] [sic] *Specific Action* The Affirmative Action Representative in each institution and parole region to be notified of all vacancies or expected vacancies before approval of new hires or commitments to hire.		Unit Supervisor	July 1, 1974 & continuous

[15] California Department of Corrections

DETAILED AFFIRMATIVE ACTION PLAN

Objective-Oriented Programs

This section will:

1. Establish specific objectives that are reasonable and obtainable.
2. Fix responsibility for the objectives.
3. Set a target date for the completion of the objectives.

A. RECRUITMENT, SELECTION, REFERRAL, AND TESTING

Objective	Responsibility**	Target Date
1. Post in minority communities and periodically inspects all posters relating to employment opportunities in the CDC.	AFFIRMATIVE ACTION REPRESENTATIVES HUMAN RELATIONS CONSULTANTS Local Training Officers Local HRC Committee Members	July 1, 1974 & continuous
2. Utilize minority & female oriented news media to publicize employment opportunities.	AFFIRMATIVE ACTION REPRESENTATIVES Local Training Officers Local HRC Committee Members	July 1, 1974 & continuous

**Primary responsibility is designated in CAPITAL LETTERS; secondary responsibility is designated in lower case letters.

	Responsibility	Target Date
3. Include the phrase "An Equal Opportunity Employer" in all advertisements placed for the CDC.	HUMAN RELATIONS CONSULTANTS AFFIRMATIVE ACTION REPRESENTATIVES Local Training Officers Local HRC Committee Members	July 1, 1974 & continuous
4. Initiate and maintain communications with minority community leaders and female leaders to develop a job information and recruitment system for employment with the CDC.	AFFIRMATIVE ACTION REPRESENTATIVES Local Training Officers Local HRC Committee Members	July 1, 1974 & continuous
[16] *Objective*		
5. Establish and maintain recruiting relations with schools and colleges with large minority enrollments.	HUMAN RELATIONS CONSULTANTS AFFIRMATIVE ACTION REPRESENTATIVES Local Training Officers Local HRC Committee Members	July 1, 1974 & continuous
6. Encourage employees to refer applicants from minority and female groups.	AFFIRMATIVE ACTION REPRESENTATIVES Local Training Officers Local HRC Committee Members	July 1, 1974 & continuous
7. Each institution will notify the Human Relations Section three weeks prior to the opening of testing for the class of Correctional Officer.	AFFIRMATIVE ACTION REPRESENTATIVES Local Training Officers	July 1, 1974 & continuous

	Responsibility	Target Date
8. Each institution will develop a written recruitment plan for Correctional Officers, the plan to include testing in minority communities and the recruitment and testing of women. This plan is to be reviewed by the Human Relations Section at least 3 weeks prior to the opening of each testing period for Correctional Officer.	AFFIRMATIVE ACTION REPRESENTATIVES Local Training Officers Local HRC Committee Members	July 1, 1974 & continuous
9. Work closely with the State Personnel Board to insure CDC test measure abilities, aptitude, specialized background knowledge, and/or skills actually required for the job.	DEPARTMENTAL PERSONNEL OFFICER	July 1, 1974 & continuous
10. Sex shall not be specified in any advertisement for employment placed by CDC except where it is a bonafied occupational qualification (BFOQ). BFOQ are not established by field units or institutions. This process must include the State Personnel Board and the Fair Employment Practices Commission.	DEPARTMENTAL PERSONNEL OFFICER	July 1, 1974 & continuous

[17] B. RECORD KEEPING AND REPORTING SYSTEMS

Personnel records will be maintained to permit assessment of the department's efforts to establish, maintain and advance its Affirmative Action policies.

1. Each institution, parole region and central office division shall monitor records of referrals, placements, transfers, and terminations at all levels to insure that the goals of the Affirmative Action Plan are met.

2. Each Deputy and Assistant Director shall require monthly ethnic/sex census reports from his/her administrative units starting July 1, 1974 to determine the degree to which the goals of the Plan are being met.

3. Each Deputy and Assistant Director shall review report results with all levels of management.

4. The monthly ethnic/sex census shall be forwarded to the Human Relations Section and Assistant Director, Women's Affairs, for evaluation and reports to the Director.

C. COMPENSATION

Objective

	Responsibility	Target Date
1. Conduct continuing review of jobs to insure that job requirements are not discriminatory.	DEPARTMENTAL PERSONNEL OFFICER Human Relations Section	July 1, 1974 & continuous
2. Insure that qualification standards for all jobs are based upon the minimum required to perform necessary duties and responsibilities.	DEPARTMENTAL PERSONNEL OFFICER	July 1, 1974 & continuous
3. Establish additional entry level positions through the Career Opportunity Development Program to increase the utilization of minorities and women.	SUPERVISOR, HUMAN RELATIONS SECTION	July 1, 1974 & continuous
4. Develop more student assistant and work study positions to expose more minorities and women college students to careers in Corrections.	DEPARTMENTAL PERSONNEL OFFICER ASSISTANT DIRECTOR, WOMEN'S AFFAIRS SUPERVISOR, HUMAN RELATIONS SECTION Local Training Officers	July 1, 1974 & continuous

[18] *Objective*	Responsibility	Target Date
5. In concert with the State Personnel Board, assure equal pay for equal work regardless of sex, age or race.	DEPARTMENTAL PERSONNEL OFFICER Supervisor, Human Relations Section Assistant Director, Women's Affairs	July 1, 1974 & continuous

D. SUPERVISION

Objective

1. Provide for orientation programs stressing Affirmative Action for all new employees. The orientation will include specific information about the Human Relations Committee of functions relative to the employee.	DEPARTMENTAL TRAINING OFFICER LOCAL TRAINING OFFICERS Human Relations Section	July 1, 1974 & continuous
2. Provide assistance to employees in need of information concerning community agencies and other CDC facilities.	LOCAL TRAINING OFFICERS HUMAN RELATIONS CONSULTANTS	July 1, 1974 & continuous
3. Develop exit interviews for all minorities and women, and other techniques to lessen minority and female employee turnover.	HUMAN RELATIONS CONSULTANTS HUMAN RELATIONS COMMITTEES	July 1, 1974 & continuous
4. Assist employees and supervisors in problem handling and solution relative to race relations and sex discrimination.	AFFIRMATIVE ACTION REPRESENTATIVE HUMAN RELATIONS COMMITTEES	July 1, 1974 & continuous

	Responsibility	Target Date
5. Assist Warden/Superintendents and Regional Administrators identify and resolve human relation problems having negative effects on employees and program efficiency.	HUMAN RELATIONS COMMITTEES	July 1, 1974 & continuous
6. Provide an effective grievance and appeal procedure to deal with employee complaints of discriminatory practices within the CDC.	SUPERVISOR, HUMAN RELATIONS SECTION ASSISTANT DIRECTOR, WOMEN'S AFFAIRS Human Relations Committees	July 1, 1974 & continuous
[19] E. TRAINING		
Objective		
1. Provide a system of educational leave with full or partial pay to train employees in work related specialties at all levels of employment with special focus on minorities and women.	DEPARTMENTAL TRAINING OFFICER Local Training Officers	July 1, 1974 & continuous
2. Establish a method of informing employees at all levels of training and promotional opportunities.	DEPARTMENTAL TRAINING OFFICER Local Training Officers	July 1, 1974 & continuous
3. Provide on-the-job training to prepare employees to meet the full requirements of their job and to provide for career growth at all levels of employment.	DEPARTMENTAL TRAINING OFFICER Local Training Officers	July 1, 1974 & continuous
4. Provide training slots in existing institutions capable of training females and minorities in the requisite skills for promotions and transfers.	DEPARTMENTAL TRAINING OFFICER Local Training Officers	July 1, 1974 & continuous

	Responsibility	Target Date
5. Encourage employees to avail themselves of training opportunities offered by community agencies.	LOCAL TRAINING OFFICERS Human Relations Committees Human Relations Consultants	July 1, 1974 & continuous
6. Include the Affirmative Action Plan in local in-service training sessions.	LOCAL TRAINING OFFICERS	July 1, 1974 & continuous
7. Provide organizational development training where appropriate within the CDC with emphasis on Affirmative Action for all management and supervisory personnel.	DEPARTMENTAL TRAINING OFFICER ASSISTANT DIRECTOR, WOMEN'S AFFAIRS SUPERVISOR, HUMAN RELATIONS SECTION	July 1, 1974 & continuous
8. Supervisors and managers will be required to attend training concerning effective supervision relative to cultural differences and Affirmative Action training.	DEPARTMENTAL TRAINING OFFICER LOCAL TRAINING OFFICERS	July 1, 1974 & continuous
9. CDC training will be provided supervisors and managers to assist in fulfilling No. 8.		July 1, 1974 & continuous

[20] F. COMMUNICATION

Objective

1. Publicize Affirmative Action Plan in internal agency communications media and departmental publications.	PUBLIC INFORMATION OFFICER Assistant Director, Women's Affairs Supervisor, Human Relations Section	July 1, 1974 & continuous

	Responsibility	Target Date
2. Insure that both minorities and women are represented in group photographs or illustrations utilized by CDC recruitment	HUMAN RELATIONS CONSULTANTS LOCAL TRAINING OFFICERS ASSISTANT DIRECTOR, WOMEN'S AFFAIRS	July 1, 1974 & continuous
3. Conduct periodic surveys of agency bulletin board to insure that the CDC Affirmative Action policy is posted.	LOCAL TRAINING OFFICERS Human Relations Committees	July 1, 1974 & continuous
4. Inform all employees in writing of the CDC commitment to equal employment opportunity. Make a copy of the Affirmative Action Plan available to all employees.	DEPUTY DIRECTORS ASSISTANT DIRECTORS Wardens/Superintendents Regional Admininistrators Division Chiefs	June 1, 1974
5. Verbally communicate to all CDC managers and supervisors the commitment of CDC to Equal Employment Opportunity.	WARDENS/SUPERINTENDENTS REGIONAL ADMINISTRATORS DIVISION CHIEFS	June 1, 1974
6. Discuss and evaluate department's EEO efforts with top and middle management.	SUPERVISOR, HUMAN RELATIONS SECTION ASSISTANT DIRECTOR, WOMEN'S AFFAIRS	Quarterly
7. Publish articles covering EEO progress reports, promotion of minorities and women in all departmental publications.	PUBLIC INFORMATION OFFICER	Quarterly or as activity or interest occupation

[21] California Department of Corrections

AFFIRMATIVE ACTION PROGRAM

Summary of Work Force Analysis

Based upon State Personnel Board statistics as of September 30, 1973, the ethnic backgrounds of Department of Corrections' personnel are about 80.2% Caucasian, 8.8% Black, 7.4% Spanish surname, 1.2% Asian, 2% Native American and 2.2% of other extraction. The comparison was made relative to the California Labor Force as reported by the U.S. Census for April, 1970. In this regard, the Department of Corrections' Caucasian personnel are represented in excess of their proportion in the State labor force, Blacks are over represented by approximately 2.5% of their expected proportion, Spanish surnames are under represented by approximately 6% of their expected proportion, while the category of other extractions are represented as expected relative to their proportion in the State labor force.

The work force of the Department of Corrections in relationship to the total Department of Corrections' inmate population, Caucasians, Asians and those of other extractions are over represented, while Black personnel comprise less than half of their expected proportion and Spanish surname personnel are approximately ⅓ of their expected proportion.

Recent guidelines by the U. S. Department of Justice indicate that an Agency's percentage of minority personnel should be at least 70% of that minority in its service (inmate population). On this basis, Black personnel should

represent at least 22.5% of the departmental work force, whereas they apparently comprise 8.8%. Similarly, Spanish surname personnel should represent 12.1%, but actually comprise 7.4%. Native American personnel should comprise .7%, while they actually make up .2%. Only the Asian and other extraction are represented in accord with the guidelines.

Ethnic and sex distributions were further examined according to the job assignments of personnel to:

1. Administration/field parole
2. CDC institutions

It appears that Black and Asian personnel are more frequently found in administrative/field parole rather than in CDC institutions. The percentage of Spanish surname personnel in administration/field parole is 1% higher than Spanish surname personnel in the institutions, 8.2% and 7.2%, respectively. Native Americans represent .3% in administrative/field parole and .2% in the institutions; however, the actual number of personnel is four (4) in administration/field parole and fourteen (14) in CDC institutions.

Data breakdowns by individual Department of Corrections institutions reveal that the highest proportion of non-Caucasian personnel exist [22] at CIM, CIW and CRC. Each of these institutions have a minority staff of approximately 23% or more. Relatively small proportions of non-Caucasian personnel exist at SCC, CMC and Folsom, each of which have a minority percentage of less than 10%. With the exception of CIW, CRC shows the largest proportion of female personnel at 16.2%.

The monthly weighted average salary is highest ($1,204.62) for Asian personnel, followed by Caucasians ($1,091.71), Native Americans ($1,021.50), Black ($998.98) and Spanish surname personnel ($970.91).

The occupational categories of personnel were examined in relation to their ethnic background and sex. Among support staff (not providing direct services to inmates), all ethnic minorities show their greatest representation in the clerical category. Blacks are most under represented in the technical job category, while Spanish surname personnel are most under represented in administrative and subprofession categories. The Native American is almost totally represented in the clerical category showing only 16.7% of their representation in the trade categories.

Among client serving staff (providing direct services to inmates), personnel of Asian descent are under represented in the category of security and over represented in the treatment category. Black personnel are under represented in the category of security while the Spanish surname personnel are under represented in the treatment category. Native Americans and other extractions show a disproportionately high percentage of their total representation in the category of security.

During the 6-month period ending September 30, 1973, about 28.4% of the departmental personnel was appointed to positions and 6.5% were separated. The ratio of appointments to separations was highest for the "other" extractions at 6.7% followed by Blacks at 4.9%.

The breakdown of the appointment statistics revealed that there were 356 promotions in the department during

this same 6-month period. Caucasian personnel comprised 81.2% of those employees promoted while Spanish surname and Black personnel were represented by 8.4% and 8.1%, respectively.

SEX

In the total labor force in California, 38.1% are female; Department of Corrections' personnel reflect a total of only 17.3%. Department of Corrections' inmate population is 3.2% female, but if women are to be hired without consideration of the service (inmate) population, then this percentage is not meaningful.

When clerical staff is excluded from the 17.3% above, it is found that only 8% of the CDC personnel is female. The total number of CDC women is 1322, but 775 are clerical workers. Thus, of a total work force of 7,633, only 547 women are employed in non-clerical positions; this represents approximately 42% of CDC females. An [23] obvious disparity exists, therefore, between male and female CDC employees.

In terms of ethnic origins of males and females, very little difference exists. Slightly less female Caucasians than male Caucasians are employed in the field and slightly more in the institutions. Blacks and Spanish surname males and females fare better in the field than in the institutions. Spanish surname women in both field and institution are under represented. Asian women are better represented in the field than men.

The institution employing the most females is CIW (66.7%), with CRC (16.2%), CCC (12.6%), and CMF (11.7%) following. The span between the facility with the

highest percentage of females (CIW—66.7%) and the lowest (Folsom—5.6%) is 61.1%. The span with regard to ethnic minorities is 26.6%. Figures breaking out clerical/non-clerical will be included in each local Affirmative Action Plan.

The average monthly salary for males in CDC is $1,091.71, for females it is $795.01. These figures are indicative of the fact that 58% of the CDC females and .08% of the males are clerical workers; the expected monthly salary would naturally be lower for females.

In terms of support staff in CDC, the overwhelming majority of women (76.5%) are employed in the clerical field. The next highest is in the professional field (11.2%). However, 9.5% of these women are in the accounting/budget/business sub-category. In administrative positions, males are represented 11.9% and women only .5%. The only area with a comparable representation is in the subprofessional category.

When men and women are compared not with themselves but with total CDC, a great disparity is shown. Females comprise only .02% of the total administrative staff, 22% of the total professional staff, 40% of the subprofessional staff, 21.1% of the technical staff, 4.6% of the trade employers, and 93.6% of the clerical staff. With the exception of clerical and subprofession, women are extremely under represented in support staff equal to their representation in society.

In client-serving staff, 67.3% of the women are located in the Lieutenant/Sergeant/Correctional Officer categories, and 28.4% in the treatment categories. At the supervisory

levels, women are less well represented than men, with 6.8% of the males at supervisor/Captain level and only 2.6% of the females. At the PA III level there are 1.8% males and only .6% females.

When female representation is compared with the total staff, it is clear that they are under represented in all areas. Among teachers in CDC, 94.7% are male, 91.5% of the treatment staff are male, with 97.8% of the males in the PA III category.

The best representation of females in the treatment category is in the Correctional Counselor series with 9.1%. Only 2.4% of all supervisors/Captains are female, and only 5.8% of the Lieutenant/Sergeant/Correctional Officer categories are female. When females are [24] represented at all, they are better represented at the lower levels (Parole Agent I, Correctional Counselor and Lieutenant/Sergeant/Correctional Officer) than at supervisory levels. Of the 192 female Lieutenants/Sergeants/Correctional Officers represented, 142 are employed at the California Institution for Women.

The percentage of separations from CDC by females (6.4%) is higher than for males (4.0%). Given that more than one-half of the CDC females are in clerical positions, that these positions are among the lowest in pay, and that clerical positions are relatively plentiful, perhaps a higher separation rate is to be expected.

The total percentage of promotions received in 1973 is 4.63%. Of this total, 3.61% were males and 1.02% were females. It would appear that women, no matter where in

CDC, are less than ⅓ as likely as males to receive a promotion.

In summing up, the data disclosed appreciable imbalances in the ethnic and sex distributions of the California Department of Corrections' personnel. Based on guidelines by the U.S. Department of Justice, there is considerable under representation of Black and Spanish surname personnel relative to the proportions of inmates from these ethnic backgrounds in terms of monthly salary and occupational categories; major disparities are apparent among Caucasian personnel as compared to those of minority backgrounds as well as among male versus female personnel.

[25] Attachment IV

California Department of Corrections

AFFIRMATIVE ACTION PROGRAM

Statistics of Ethnic Origins

And

Sex Distribution of California Department of Corrections Personnel

[26] SCOPE AND SOURCE OF DATA

Of primary interest in this section are recent data on the ethnicity and sex distribution of California Department of Corrections' personnel, together with breakdowns according to departmental assignment, salary category, occupational category, and promotions. This information is useful for assessing the minority group status of Department of Corrections' personnel relative to that of other groups; moreover, it provides baseline data for future comparisons involving updated statistics on minority representation among Department of Corrections' personnel.

The personnel figures set forth below are based on the statistics derived from appointment and separation documents that are routinely processed by the State Personnel Board. The additional data shown in Tables 1A and 1B are based on the April, 1970, census reports and on statistics maintained on the Department of Corrections' inmate population by the Deparement of Corrections' Research Division.

ETHNIC ORIGIN

Table 1A places the ethnic distribution of the Department of Corrections' personnel in perspective against those of the total California Labor Force population and the Department of Corrections' inmate population. The first aspect worth noting is that Department of Corrections' personnel as of September, 1973, are represented by about 80% Caucasians and 20% minorities; the latter include about 8.8% Black, 7.4% Spanish surname, 1.2% Asian descent, .2% Native American and 2.2% of other ethnic origins.

TABLE 1A

ETHNIC ORIGIN OF SELECTED GROUPS: CALIFORNIA POPULATION AS OF APRIL, 1970, CDC PERSONNEL AS OF SEPTEMBER, 1973 AND CDC INMATES EXCLUDING RGC'S AS OF DECEMBER, 1973

Ethnic Origin	California Labor Force April 1970*		CDC Personnel		CDC Inmates	
	Number	Percent	Number	Percent	Number	Percent
Caucasian	6,100,053	76.3	6,125	(80.2)	9,107	(48.8)
Black	502,057	6.3	672	(8.8)	6,019	(32.2)
Spanish Surname	1,093,904	13.7	564	(7.4)	3,235	(17.3)
Asian	= 296,154	3.7	88	(1.2)	50	(.3)
Native American			18	(.2)	181	(1.0)
Other			166	(2.2)	82	(.4)
Total	7,992,168	100.0	7,633	(100.0)	18,673	(100.0)

*Source: Summary manpower Indicators for State of California (as of April 1970), Manpower Package #1, U.S. Bureau of Census.

[27] In comparison with the California Labor Force, Department of Corrections personnel of Caucasian background are over represented by 3.9%; Blacks are over represented by 2.5%. On the other hand, the Spanish surname personnel are under represented by approximately 6.3% of their expected proportion. A somewhat different pattern emerges however when a comparison is made with Department of Corrections' inmate population. Caucasians in the department are greatly over represented relative to inmates, while Black and Spanish surname are grossly unrepresentative, having a total percentage of 8.8% and 7.5% respectively.

To provide agencies goals, equal employment opportunity guidelines have been issued by the U.S. Department of Justice.[1] They specify that the percentage of minority staff in the employment of the agency be at least 70% of the percentage of the minorities in the service (inmate) population. Thus, according to Table 1A, Black personnel should comprise 22.5% and Spanish surname personnel should comprise 12.1% of the Department of Corrections work force. As seen in Table 1A, only the personnel of Asian and other extractions meet the guidelines.

SEX DISTRIBUTION

Table 1B presents further comparison with respect to sex. It should be noted that slightly over ¾ (82.7%) of the 7,633 employees are male and less than ¼ female. Comparing the percentage of female in the California Labor Force as of April, 1970, there is an appreciable disparity of 20.8% points. There are proportionately nearly 5 times as many female Department of Corrections personnel as female inmates.

[1]*Guidelines for law enforcement agencies,* U.S. Department of Justice, August 31, 1973.

TABLE 1B

SEX OF SELECTED GROUPS: CALIFORNIA POPULATION AS OF APRIL, 1970,
CDC PERSONNEL AS OF SEPTEMBER, 1973
AND CDC INMATES EXCLUDING RGC'S AS OF DECEMBER, 1973

Sex	California Labor Force April 1970		CDC Personnel		CDC Inmates	
	Number	Percent	Number	Percent	Number	Percent
Male	4,945,195	61.9	6,311	(82.7)	18,080	(96.8)
Female	3,046,973	38.1	1,322	(17.3)	594	(3.2)
Total	7,922,168	100.0	7,633	(100.0)	18,674	(100.0)

Set forth in Table 1C are the ethnic distributions of Department of Corrections personnel classified by sex. The percentage distribution indicates that female employees are appreciably under represented among the Spanish surname according to the total proportion of this ethnic group, however, the Black and Asian descent females are over represented according to the total proportion of their respective ethnic groups. Only the percentages of Caucasian, Native American and other extraction female personnel [28] are similar to their ethnic representation among the total CDC personnel.

TABLE 1C

ETHNIC ORIGIN BY SEX OF CDC PERSONNEL
AS OF SEPTEMBER, 1973

Ethnic Origin	Total		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
Caucasian	6,125	(80.2)	5,086	(80.6)	1,039	(78.6)
Black	672	(8.8)	523	(8.3)	149	(11.3)
Spanish Surnamed	564	(7.4)	491	(7.8)	73	(5.5)
Asian	88	(1.2)	55	(0.9)	33	(2.5)
Native American	18	(.2)	14	(.2)	4	(.3)
Other	39	(.5)	33	(.6)	6	(.4)
Not Reported	127	(1.7)	109	(1.6)	18	(1.4)
Total	7,633	(100.0)	6,311	(100.0)	1,322	(100.0)

ASSIGNMENT BY ETHNIC ORIGIN

Table 2A shows the ethnic distribution of CDC personnel according to job assignment: 1) administration/field parole offices throughout the State and 2) CDC institutions. The most obvious aspects in the table are that Black and Asian personnel are more frequently placed in administrative/field parole jobs rather than institutional jobs. By contrast, Caucasians are more often found in institutional assignments while there exist only a 1% difference between administration/field parole and institutional assignments for the Spanish surname.

In conjunction with Table 1A showing the ethnic background of CDC inmates, Table 2A takes on additional meaning. It is clear that relative to the percentage of CDC inmates: 1) disproportionately, numerous personnel of Caucasian and Asian descent are employed in the department, particularly in CDC institutions; and 2) disproportionately small number of Blacks and Spanish surname personnel work in the department, this disparity being most pronounced for Black personnel in CDC institutions.

TABLE 2A

ETHNIC ORIGIN OF CDC PERSONNEL BY ADMINISTRATION-FIELD PAROLE AND INSTITUTIONAL ASSIGNMENT AS OF SEPTEMBER, 1973

Ethnic Origin	Total		Administration Field Parole		Institution	
	Number	Percent	Number	Percent	Number	Percent
Caucasian	6,125	80.2	1,004	69.0	5,121	82.9
Black	672	8.8	272	18.7	400	6.5
Spanish Surnamed	564	7.4	120	8.2	444	7.2
Asian	88	1.2	45	3.1	43	0.7
Native American	18	.2	4	.3	14	.2
Other	39	.5	8	.6	31	.5
Not Reported	127	1.7	1	0.1	126	2.0
Total	7,630	100.0	1,454	100.0	6,179	100.0

[29] ASSIGNMENT AND SEX BY ETHNIC ORIGIN

Comparison of ethnic distributions according to departmental assignment and sex of CDC personnel are seen in Table 2B. Not suprisingly Caucasian females represent a much higher proportion in institutional assignments than administration/field paroles (68.4% versus 83.9% respectively). Further perusal of Table 2B brings to light several other interesting differences. First, black females, when compared to the percentage of total black personnel are evenly represented in administration/field parole, but greater than expected in institutional jobs. Second, the Spanish surname females reveal a smaller proportion than expected in both of the assignment categories.

If it is assumed that both female and male staff contribute substantially to rehabilitative programs in CDC, then it is quite apparent that more female staff are needed in all settings. Moreover, the above data indicates that there is a particular need for female personnel from minority ethnic groups in CDC institutions.

TABLE 2B

ETHNIC ORIGIN OF CDC PERSONNEL BY ADMINISTRATION/FIELD PAROLE AND INSTITUTIONAL ASSIGNMENT AS OF SEPTEMBER 1973

(In Percent)

Ethnic Origin	Administration Field Parole				Institution		
	Total	Total	Male	Female	Total	Male	Female
Caucasian	80.2	69.0	69.4	68.4	82.9	82.7	83.9
Black	8.8	18.7	18.6	18.8	6.5	6.4	7.2
Spanish Surnamed	7.4	8.2	9.2	6.3	7.2	7.5	5.3
Asian	1.2	3.1	2.1	5.2	0.7	0.7	0.9
Native American	0.2	0.3	0.3	0.2	0.2	0.2	0.5
Other	0.5	0.6	0.4	0.9	0.5	0.5	0.1
Not Reported	1.7	0.1	0	0.2	2.0	2.0	2.1
Total	100.0% (7,633)	100.0% (1,454)	100.0% (976)	100.0% (478)	100.0% (6,179)	100.0% (5,360)	100.0% (819)

Table 3A distributes the ethnic background of CDC personnel according to assignment among various institutions. Several features may be noted. First, the highest proportions 23.3%—28.3%—32.4% of non-white personnel are utilized at CRC, CIW and CIM, while relatively low proportions (less than 10%) are found at SCC, CMC, and Folsom. Second, Black personnel are largest (15%) at CIW and (11.7%) CRC, whereas comparatively low proportions are employed at SCC (.05%), CCC (1.2%), and CMC (2.2%). Third, Spanish surname personnel work [30] mostly at CCI (14.2%), CIM (11.7%), CTF (11.6%), and CIW (10.6%) these, with the exception of CTF, being southern facilities which have generally more access to Mexican Americans in the labor force, but in rather small proportions (below 5%) at CCC, SCC, S.Q. and CMF) [sic].

TABLE 3A

ETHNIC ORIGIN OF CDC PERSONNEL, BY FACILITY

(In Percent*)

Facility	Total Number	Caucasian	Black	Spanish Surnamed	Asian	Native American	Other	Not Reported
Total	6,179	82.9	6.5	7.2	0.7	0.2	0.5	2.0
CCC	253	85.8	1.2	3.1	0.4	0.4	1.2	7.9
CCI	352	78.4	4.0	14.2	0.3	.0	.0	3.1
CIM	695	67.6	8.9	11.7	0.7	.0	0.9	10.2
CIW	378	71.7	15.1	10.6	0.8	.0	0.5	1.3
CMF	696	88.4	5.9	3.7	1.2	0.7	0.1	.0
CMC	603	91.5	2.2	4.8	0.7	0.2	0.3	0.3
CRC	463	76.7	11.7	9.3	0.2	0.2	0.6	1.3
FOLSOM	498	90.4	4.6	4.2	0.4	0.2	0.2	.0
SAN QUENTIN	695	85.2	9.6	3.5	1.0	0.1	0.1	0.5
CTF	621	77.1	8.1	11.6	1.1	0.2	1.6	0.3
DVI	514	88.9	2.7	7.2	0.8	0.2	0.2	.0
SCC	411	94.2	0.5	3.2	.0	0.5	0.2	1.4

*Percentages shown for each facility are based on the Total Number as indicated in the first column.

SEX AND FACILITY

Table 3B reveals that the largest proportion (66.7%) of female personnel work at CIW, the only institution housing female inmates. Among other institutions, CRC stands out as having the largest (16.2%) work force female, followed by CIM (12.9%), CCI (12.6%) and CMF (11.6%).

[31] TABLE 3B

SEX DISTRIBUTIONS OF CDC PERSONNEL, BY FACILITY

(In Percent)*

Facility	Total Number	Male	Female
Total	6,179	86.3	13.9
CCC	253	87.4	12.6
CCI	352	89.2	10.8
CIM	695	87.1	12.9
CIW	378	33.3	66.7
CMF	696	88.4	11.6
CMC	603	90.4	9.6
CRC	463	83.8	16.2
Folsom	498	94.4	5.6
San Quentin	695	90.1	9.9
CTF	621	93.6	6.4
DVI	514	91.4	8.6
SCC	411	91.0	9.0
P&CSD	1,041	71.9	28.1

*Percentages shown for each facility are based on the total number as indicated in the first column.

SALARY BY ETHNIC ORIGIN

Shown in Table 4A are CDC personnel classified by ethnic origin and distributed according to salary categories. It is apparent that the monthly weighted average salary of the total personnel is $1,091.71 with under .7% receiving below $500 and nearly 6.2% receiving $1,500 or more. The monthly weighted average salary is higher ($1,204.62) for Asian employees followed by Caucasians ($1,116.86), Native Americans ($1,021.50), Blacks ($998.98), and Spanish surname ($970.91). It may be noted that less than 2% of the Spanish surname and 3.5% Black personnel had salaries of $1,500 or above while nearly 6.9% of the Caucasians and 9.1% of the Asian personnel earn salaries [32] in this upper range.

TABLE 4A

ETHNIC ORIGIN BY SALARY DISTRIBUTION FOR CDC PERSONNEL AS OF SEPTEMBER 1973

(In Percent)

Salary	Total	Caucasian	Black	Spanish Surnamed	Asian	Native Americans	Other
$ 499 and Under	.7	.4	1.6	.9	3.4	5.6	3.0
500- 699	9.5	9.1	12.2	6.9	25.0	22.4	11.5
700- 899	25.1	20.8	39.9	47.0	15.9	11.1	58.4
900-1,099	32.1	34.1	24.3	26.1	22.8	27.8	14.5
1,100-1,299	18.7	20.3	12.7	12.6	13.6	22.2	7.8
1,300-1,499	7.7	8.4	5.8	4.8	10.2	11.1	.6
1,500-1,699	2.3	2.6	1.3	1.2	1.1	.0	.6
1,700 and Over	3.9	4.3	2.2	.5	8.0	.0	3.6
Total Personnel	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Monthly Weighted Average Salary	$1,091.71	$1,116.56	$998.98	$970.91	$1,204.62	$1,021.50	$938.60

SALARY BY SEX

As indicated in Table 4B, the monthly weighted average salary of male personnel is $1,091.71, while that of female personnel is $795.01. Thus, the disparity in monthly weighted average salaries between the two groups is considerably greater than the maximum difference between ethnic groups (Asian and Spanish surname). Much of the disparity is accounted for by the fact that female employees are greatly over represented among the clerical classes. In this regard, 48.4% of the female personnel earned under $700 (top salary for Clerk II and related classes is $654), while only 10.2% of the male personnel earn less than this amount.

TABLE 4B

SALARY DISTRIBUTIONS BY SEX FOR CDC PERSONNEL AS OF SEPTEMBER 1973

(In Percent)

Salary	Total	Male	Female
$ 499 and Under	.7	.5	1.6
500- 699	9.5	1.6	46.8
700- 899	25.1	24.5	27.9
900-1,099	32.1	36.4	11.7
1,100-1,299	18.7	20.9	8.4
1,300-1,400	7.8	8.9	2.5
1,500-1,699	2.3	2.7	0.3
1,700-Over	3.8	4.5	0.8
Total Personnel	100.0%	100.0%	100.0%
Monthly Weighted Average	$1,040.32	$1,091.71	$795.01

[33] OCCUPATIONAL CATEGORY BY ETHNIC ORIGIN

Presented in Table 5A are occupational categories of CDC support staff-personnel who provided supportive rather than direct services to inmates classified by ethnic origin. The table reveals a number of disparities. First, all minority personnel are greatly over represented in the clerical classes; Black and Spanish surname personnel are near expected representation in the trade category, while they are under represented in the professional and technical categories. Second, Spanish surname personnel are disproportionately few in the administrative, and professional categories and Black personnel in technical categories. Black personnel loom large in the subprofessional categories. Third, the Native American is almost totally represented in the clerical category.

TABLE 5A

ETHNIC ORIGIN BY OCCUPATIONAL CATEGORIES FOR SUPPORT STAFF

Occupational Category	Total		Caucasian		Black		Spanish Surname		Asian		Native American		Other	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
ADMINISTRATION:	(172)	(7.0)	(144)	(6.0)	(17)	(11.2)	(8)	(8.6)	(2)	(4.0)			(1)	(1.7)
Director/Deputy	5	.2	5	.2										
Asst. Dir./Chief	8	.3	8	.3										
Warden/Supt.	12	.5	9	.4	1	.7			1	(2.0)			1	(1.7)
Deputy/Assoc.	36	1.4	8	.4	3	2.0	1	1.1						
Parole Admin.	38	1.5	30	1.4	5	3.3	2	2.1	1	2.0				
Program Admin.	51	2.1	66	3.2	4	2.6	4	4.3						
Field Rep./AA Rep.	16	.7	12	.6	3	1.9	1	1.1						
Special Agent	7	.3	6	.3	1	.7								
PROFESSIONAL:	(508)	(20.9)	(461)	(22.2)	(18)	(11,8)	(9)	9.7	(10)	(20.0)			(10)	(17.2)
Acct./Bdgt./Mgt./Fis.	172	7.1	155	7.5	9	5.9	4	4.3	3	6.0			1	1.7
Business Services	138	5.7	127	6.1	4	2.6	2	1.2	3	6.0			2	3.4
Medical	126	5.2	112	5.4	4	2.6	2	1.2	2	4.0			6	10.4
Research	25	1.0	22	1.0	1	.7			2	4.0				
Other	47	1.9	45	2.2			1	1.0					1	1.7
SUBPROFESSIONAL:	(77)	(3.2)	(45)	(2.2)	(18)	(11.8)	(7)	(7.5)	(1)	(2.0)			(6)	(10.4)
Intern	23	1.0	14	.7	4	2.6	1	1.1					4	6.9
Student	54	2.2	31	1.5	14	9.2	6	6.4	1	2.0			2	3.5
TECHNICAL:	(307)	(12.6)	(270)	(13.0)	(11)	(7.3)	(10)	(10.8)	(3)	(6.0)			(13)	(22.4)
Medical	307	12.6	270	13.0	11	7.3	10	10.8	3	6.0			13	22.4
TRADE:	(540)	(22.2)	(481)	(23.2)	(26)	(17.1)	(19)	(20.4)	(4)	(8.0)	(1)	(16.7)	(9)	(15.5)
Factory Mgt.	84	3.5	72	3.5	4	2.6	7	7.5					1	1.7
Agriculture	30	1.2	29	1.4			1	1.1						
Food Service	139	5.7	108	5.2	16	10.6	7	7.5	2	4.0	1	16.7	5	8.6
Maintenance	272	11.2	261	12.6	4	2.6	3	3.2	1	2.0			3	5.2
Other	15	.6	11	.5	2	1.3	1	1.1	1	2.0				
CLERICAL:	(827)	(34.0)	(671)	(32.4)	(62)	(40.8)	(40)	(43.0)	(30)	(60.0)	(5)	(83.3)	(19)	(32.8)
Supv. & Related	242	9.9	207	10.0	11	7.2	12	12.9	11	22.0			1	1.7
Clerk II & Related	545	22.4	433	20.9	48	31.6	27	29.0	16	32.0	4	66.6	17	29.3
Clerk I & Related	36	1.5	30	1.4	2	1.3	1	1.1	2	4.0			1	1.7
Temporary & Asst. Clerk	4	.2	1	.1	1	.7			1	2.0	1	16.7		
OTHER:	(2)	(0.1)	(2)	(0.1)										
Transportation Offr.	2	.1	2	.1	[sic]									
Totals	(2433)	(100.0)	(2074)	(100.0)	152	(100.0)	93	(100.0)	50	(100.0)	(6)	(100.0)	58	(100.0)

[34] Table 5B is limited to client serving staff which are defined here as those who generally provide direct services to inmates as part of their basic job function. The table indicates that Black staff tend to be appreciably over represented in the treatment category, while both Black and Spanish surname personnel are under represented among teachers. Those of Asian descent appear to be under represented in the security category, whereas they are greatly over represented in the treatment category. Spanish surname personnel shows an over representation in the security category and an under representation in the treatment classes.

Asian descent staff differ somewhat from Black and Spanish surname staff in their patterns of representation. Their proportion is about as expected among teachers, but as previously mentioned, they are greatly over represented among treatment staff and about half that expected among security staff. They are notably over represented among the Correctional Counselor, Parole Agent I, and to much lesser degree Parole Agent II and Parole Agent III. By contrast, there is no Asian staff among psychologist, therapist and para-professional classes.

TABLE 5B

ETHNIC ORIGIN BY OCCUPATIONAL CATEGORIES FOR CLIENT-SERVING STAFF FOR CDC AS OF SEPTEMBER, 1973

Occupational Category	Total		Caucasian		Black		Span. Surname		Asian		Native Amer.		Other	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
CLIENT-SERVING STAFF														
Teacher:	(242)	(4.7)	(207)	(5.1)	(16)	(3.1)	(12)	(3.1)	(2)	(5.2)			(5)	(4.7)
Supervisors	31	.6	29	.7	1	.2			1	2.6				
Academic	65	1.3	56	1.4	5	1.0	1	.2					3	2.8
Vocational	146	2,8	122	3.0	10	1.9	11	2.3	1	2.6			2	1.9
Treatment:	(1031)	(19.9)	(798)	(19.8)	(126)	(24.4)	(78)	(16.6)	(21)	(55.3)	(2)	(16.6)	(6)	(5.5)
PA III	92	1.8	70	1.7	12	2.3	7	1.5	2	5.3	1	8.3		
PA II	131	2.5	103	2.6	15	2.9	10	2.1	2	5.3			1	.9
PA I	396	7.6	285	7.1	56	10.8	44	9.4	10	26.3			1	.9
Correc. Couns. III	33	0.6	31	0.8					2	5.3				
Correc. Couns. II	73	1.4	65	1.6	6	1.2	1	0.2	1	2.6				
Correc. Couns. I	166	3.2	138	3.4	15	2.9	9	1.9	1	2.6	1	8.3	2	2.0
Psychologist	37	.7	34	.8	1	.2	1	.2					1	.9
Psychiatrist	61	1.2	53	1.3	5	1.0			3	7.9				
Therapist/ Nurse	8	.2	8	.2										
Paraprofessional	34	.7	11	.3	16	3.1	6	1.3					1	.9
Security:	(3878)	(74.7)	(3002)	(74.2)	(374)	(72.5)	(380)	(80.9)	(15)	(39.5)	(10)	(83.4)	(97)	(89.8)
Supervisor, Capt.	342	6.6	296	7.3	15	2.9	22	4.7	1	2.6	4	33.4	4	
Lieut.	186	3.6	176	4.3	2	0.4	8	1.7						
Corr. Sgt.	400	7.7	355	8.8	20	3.9	22	4.7			2	16.7	1	1.0
Corr. Officer	2928	56.4	2167	53.6	324	62.8	327	69.6	14	36.9	4	33.3	84	84.0
Correc. Offcr. Tr.	22	.4	8	.2	13	2.5	1	.2						
Other:	(37)	(.7)	(37)	(.9)										
Chaplain	37	.7	37	.9										
Totals	(5188)	(100.0)	(4044)	(100.0)	(516)	(100.0)	(470)	(100.0)	(38)	(100.0)	(12)	(100.0)	(108)	(100.0)

[35] OCCUPATIONAL CATEGORY BY SEX

It is apparent that in Table 5C, female support staff are greatly under represented in all but two of the occupational categories; the exceptions are the subprofessional category, and the clerical category, the latter being 76.5% female as compared to 3.7% male personnel in clerical classes.

TABLE 5C

SEX BY OCCUPATIONAL CATEGORIES FOR SUPPORT STAFF IN CDC AS OF SEPTEMBER, 1973

Occupational Category	Total		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
SUPPORT STAFF						
Administrative:	(172)	(7.0)	(167)	(11.8)	(5)	(.5)
Director/Deputy ..	5	.2	5	.4		
Asst. Dir/Chief	8	.3	8	.6		
Warden/Superin. ..	12	.5	11	.8	1	.1
Deputy/Assoc.	35	1.4	39	2.7	2	.2
Parole Admin.	38	1.5	38	2.7		
Program Admin.	51	2.1	43	3.0	2	.2
Field Rep/AA Rep.	16	.7	16	1.1		
Special Agents	7	.3	7	.5		
Professional:	(508)	(20.9)	(395)	(27.9)	(113)	(11.2)
Acct./Bdgt/Mgt/ Fiscal	172	7.1	76	5.4	96	9.5
Bus. Svcs.	138	5.7	136	9.6	2	.2
Medical	126	5.2	123	8.7	3	.3
Research	25	1.0	14	1.0	11	1.1
Other	47	1.9	46	3.2	1	.1
Subprofessional:	(77)	(3.2)	(46)	(3.2)	(31)	(3.0)
Intern	23	1.0	14	1.0	9	.9
Student	54	2.2	32	2.2	22	2.1
Technical:	(307)	(12.6)	(242)	(17.0)	(65)	(6.4)
Medical	307	12.6	242	17.0	65	6.4
Trade:	(540)	(22.2)	(515)	(36.3)	(25)	(2.5)
Factory Management	84	3.5	80	5.6	4	.4
Agriculture	30	1.2	30	2.1		
Food Services	139	5.7	120	8.5	19	1.9
Maintenance	272	11.2	272	19.2		
Other	15	.6	13	.9	2	.2
Clerical:	(827)	(34.0)	(52)	(3.7)	(775)	(76.5)
Supervisor & Related	242	9.9	19	1.3	223	22.0
Clerk II & Related	545	22.4	31	2.2	514	50.7
Clerk I & Related .	36	1.5	1	.1	35	3.4
Temporary & Asst. .	4	.2	1	.1	3	.3
Other:	(2)	(.1)	(2)	(.1)		
Transportation	2	.1	2	.1		
Totals	(2433)	(100.0)	(1419)	(100.0)	(1014)	(100.0)

[36] With reference to clients serving the staff, Table 5D reveals that females include disproportionately few security staff and slightly more than expected treatment staff. Within the latter category, however, there is a wide variation among the different classes. For example, females are under represented among the supervisory treatment classes (Parole Agent II and III), and over represented among Parole Agent I and Correctional Counselor.

TABLE 5D

SEX BY OCCUPATIONAL CATEGORIES FOR CLIENT-SERVING STAFF FOR CDC

Occupational Category	Total		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
CLIENT-SERVING STAFF						
Teacher:	(242)	(4.7)	(229)	(4.7)	(13)	(4.3)
Supervisor	31	.6	31	.6		
Academic	65	1.3	59	1.2	6	2.0
Vocational	146	2.8	139	2.9	7	2.3
Treatment:	(1031)	(19.9)	(944)	(19.3)	(87)	(28.4)
Parole Agent III	92	1.8	90	1.8	2	.6
Parole Agent II	131	2.5	124	2.5	7	2.3
Parole Agent I	396	7.6	358	7.3	38	12.4
Corr. Couns. III	33	.6	32	.7	1	.3
Corr. Couns. II	73	1.4	69	1.4	4	1.3
Corr. Couns. I	166	3.2	143	2.9	23	7.5
Psychologist	37	.7	34	.7	3	1.0
Psychiatrist	61	1.2	56	1.2	5	1.6
Nurse/Therapist	8	.2	6	.1	2	.7
Paraprofessional	34	.7	32	.7	2	.7
Security:	(3878)	(74.7)	(3672)	(75.2)	(206)	(67.3)
Supervisor/Captain	342	6.6	334	6.8	8	2.6
Lieutenant	186	3.6	175	3.6	11	3.6
Sergeant	400	7.7	386	7.9	14	4.6
Correctional Officer	2928	56.4	2761	56.6	167	54.5
Correc. Offr. Trainee	22	.4	16	.3	6	2.0
Other:	(37)	(.7)	(37)	(.8)		
Chaplain	37	.7	37	.8		
Totals	(5188)	(100.0)	(4882)	(100.0)	(306)	(100.0)

APPOINTMENTS AND SEPARATIONS BY ETHNIC ORIGIN AND SEX

Table 6A shows the percentage of total personnel who received appointments and separations from civil service classes during the six months prior to September 30, 1973. The table is further broken down for male and female personnel and by ethnic origin.

[37] TABLE 6A

APPOINTMENTS AND SEPARATIONS BY ETHNIC ORIGIN AND SEX OF CDC PERSONNEL
(AS PERCENT OF TOTAL PERSONNEL)
AS OF SEPTEMBER 1973

	Appointments			Separations		
Ethnic Origin	Total	Male	Female	Total	Male	Female
Caucasian	17.7	16.5	23.5	4.4	4.0	6.4
Black	4.0	3.5	6.4	.8	.8	1.0
Spanish Surname	2.7	2.7	3.0	.6	.6	.7
Asian	.2	.2	.6	.1	.0	.2
Native American	.1	.1	.2	.0	.0	.0
All Personnel	28.4	26.5	38.5	6.5	5.9	9.0

Viewed overall, about 28% of the departmental personnel were appointed to positions and 6.5% were separated. The corresponding Table 6B indicates that there were 2,170 appointments and 494 separations, or a net gain of 1,676 employees. Table 6A also reveals that the number of appointments is about 4.4 to 1.

TABLE 6B

NUMBER OF APPOINTMENTS AND SEPARATIONS BY ETHNIC ORIGIN AND SEX OF CDC PERSONNEL AS OF SEPTEMBER 1973

Ethnic Origin	Appointments			Separations		
	Total	Male	Female	Total	Male	Female
Caucasian	1351	1040	311	337	253	84
Black	304	219	85	62	49	13
Spanish Surname	207	168	39	48	39	9
Asian	18	10	8	5	3	2
Native American	8	6	2	0	0	0
Other	282	218	64	42	33	9
Total	2170	1661	509	494	377	117

[38] TABLE 6C

RATIO OF APPOINTMENTS TO SEPARATIONS BY ETHNIC ORIGIN AND SEX FOR CDC PERSONNEL AS OF SEPTEMBER 1973

Ethnic Origin	Total	Male	Female
Caucasian	4.0	4.1	3.7
Black	4.9	4.5	6.5
Spanish Surname	4.3	4.3	4.3
Asian	3.6	3.3	4.0
Native American	.0	.0	.0
Other	6.7	6.6	7.1
All Personnel	4.4	4.4	4.4

Compared by ethnic origin, the highest percentage (17.7%) occured among Caucasian personnel and the lowest percentage (.1%) among those of Native American descent. A similar relative difference between these groups is shown for both male and female personnel.

As seen in Table 6C, the ratio of appointments to separations was greatest (6.7%) for other extraction employees and smallest (3.6%) for Asians. The other extraction ratio was also greatest when considered for males and females, while the female Caucasian ratio of 3.7% and male Asian 3.3% are lowest.

Compared by sex, there is a 12 percentage point difference in the percentage of appointments among male and female personnel (26.5% and 38.5%). The ratio of appointments to separations show no appreciable difference for males than for females. It is quite apparent, however, that with respect to both the percentages of appointments and the ratio of appointments to separations there is more variation by ethnic group than by sex.

PROMOTIONS BY ETHNIC ORIGINS AND SEX

Featured in Table 7A, are the percentages of the total departmental personnel who were promoted April through September 30, 1973, broken down by ethnicity and sex. Since promotions account for some type of appointments, the statistics shown in this table overlap with those presented in Table 6A.

The table discloses that 4.6% of all personnel were promoted during the 6 month period. The proportion varied from about .01% for personnel of Native American and other extraction personnel to 3.7% [39] for Caucasians. Three point six (3.6%) percent of the males compared to 1.02% of the female receive promotions. Interesting, while the promotion rate among males was highest, 2.9% for Caucasians and lowest .01% for Native Americans and other extractions, the rate among females was highest for Caucasian and lowest for Asian personnel.

In subsequent statistical reports, it is anticipated that promotions among minority personnel will be analyzed in more detail according to occupational category and salary level. It will be important to determine whether the above

pattern holds true or is substantially modified when examined in this manner.

TABLE 7A

PROMOTIONS BY ETHNIC ORIGIN AND SEX
FOR CDC PERSONNEL
(AS PERCENT OF TOTAL PERSONNEL)

Ethnic Origin	Total	Male	Female
Caucasian	3.78	2.97	.81
Black	.37	.26	.11
Spanish Surname	.39	.31	.08
Asian	.07	.05	.02
Other	.01	.01	.00
Native American	.01	.01	.00
Total	4.63	3.61	1.02

TABLE 7B

NUMBER OF PROMOTIONS BY ETHNIC ORIGIN AND SEX
FOR CDC AS OF SEPTEMBER 1973

Ethnic Origin	Total	Male	Female
Caucasian	289	227	62
Black	29	20	9
Spanish Surname	30	24	6
Asian	6	4	2
Native American	1	1	0
Other	1	1	0
Total	356	227	79

[40] ATTACHMENT V

SUMMARY OF DEPARTMENT OF JUSTICE GUIDELINES FOR LAW ENFORCEMENT AGENCIES

Equal Employment Opportunity guidelines that state and local law enforcement agencies are to follow in order to qualify for financial assistance have been issued by the Department of Justice and are summarized as follows:

APPLICATION

Any state and local police agency, correctional agency, criminal court system, probation and parole agencies receiving federal financial assistance directly or through another recipient is obligated to formulate, implement and maintain an equal employment program to include the following elements:

I. Evaluation of Employment Opportunities

Essential to the development and implementation of the Equal Employment Opportunity Program is the identification and analysis of problem areas existing in the utilization of minority and women in all of the recipients employment phases (recruitment, selection and promotion). Recipient affirmative action program efforts should be coordinated with the State Personnel Board, who, by law, has responsibility for recruitment, selection and promotion of employees. The evaluation should include the following:

A. A workforce analysis shall be conducted separately for minorities and women to include all job categories.

B. An analysis of all *recruitment and selection procedures* for the preceding fiscal year shall be conducted to include test validity, recruitment methods, interview procedures, etc.

C. An analysis of seniority practices, promotions, formal and informal training procedures to assure that equal employment opportunity is being afforded to women and minorities.

D. A reasonable assessment of barriers to minority employment inherent in external factors such as lack of suitable transportation and housing desirable to the work location.

II. Written Equal Employment Opportunity Program shall include:

A. A job classification table or chart clearly indicating the assignment of employees by race, sex and national origin and including:

1. Principal duties and rates of pay for each job class.

2. Where shift assignments are utilized, the number of employees by race, sex and national origin on each shift (compared with ethnic population of general area).

[41] 3. Disciplinary actions taken against employees by race, sex and national origin within preceding fiscal year and their disposition.

4. The number of applications for employment by race, sex and national origin (if available). The

number offered employment and actually hired (if available). If not available, a system to collect above data shall be instituted.

5. The number of employees by sex, race and national origin who applied for promotions or transfers within the preceding fiscal year and results.

6. The number of terminations by race, sex and national origin for the preceding year.

7. Available labor force characteristics must be obtained and utilized.

8. In detail, clearly describe a narrative of the recipient's employment policies and practices.

9. The recipient shall develop and implement a formal comprehensive program for the recruitment of minorities.

10. The *dissemination of information* of the affirmative action program shall be to all personnel, applicants and the general public.

11. The *assignment of roles and responsibilities* to implement and administer the affirmative action program must be clear.

III. Recordkeeping and Certification

The Affirmative Action Plan and all records used in its preparation shall be kept on file for subsequent audit or review by LEAA. A certificate shall be filed by the recipient with CCCJ stating such program record.

IV. Program Monitoring and Evaluation

Recipient agencies are expected to conduct a continuing evaluation of the Affirmative Action Program. Post-award compliance reviews of recipient agencies will be scheduled by LEAA and EEO program modifications may be suggested when a significant disparity between the percentage of minority employees and the percentage of service population (70 percent of service population should be at least the percentage of minorities in the recipient's workforce). "Service" population as referred to shall be the inmate or client population served by the recipient during the preceding fiscal year.

NON-COMPLIANCE

Failure to implement and maintain an Equal Employment Opportunity Program as required by these guidelines shall subject recipients to sanctions prescribed by the Safe Streets Act and EEO regulations of the Department of Justice.

[42] Guidelines for Law Enforcement Agencies

¶ 1643

Equal employment opportunity guidelines that state and local law enforcement agencies are to follow in order to qualify for financial assistance have been issued by the U.S. Department of Justice and are reproduced below. The first of these guidelines, as amended effective August 31, 1973 (38 F. R. 23516), relates to the general equal employment opportunity responsibilities of agencies receiving such federal aid from the Law Enforcement Assistance Administration. They are codified as Title 28, Chapter I, Subpart E of Part 42 of the Code of Federal Regulations.

The second set of guidelines (38 F. R. 6415), effective March 9, 1973, is designed to assist in the elimination of illegal sex, racial and national origin bias caused by the use of restrictive minimum height job requirements.

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 42—NONDISCRIMINATION: EQUAL OPPORTUNITY: POLICIES AND PROCEDURES

Subpart E—Equal Employment Opportunity Guidelines

By virtue of the authority vested in it by 5 U.S.C. 301, and section 501 of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, 82 Stat. 197, as amended, the Law Enforcement Assistance Administration hereby issues Title 28, Chapter I, Subpart E of Part 42 of the Code of Federal Regulations. In that the material contained herein is a matter relating to the grant program of the Law Enforcement Assistance Administration, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

Subpart E—Equal Employment Opportunity Guidelines

Sec.

42.301 Purpose.
42.302 Application.
42.303 Evaluation of employment opportunities.
42.304 Written Equal Employment Opportunity Program.
42.305 Recordkeeping and certification.
42.306 Guidelines.
42.307 Obligations of recipients.
42.308 Noncompliance.

Authority: 5 U.S.C. sec. 501 of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, 82 Stat. 197, as amended.

§ 42.301 Purpose.

(a) The experience of the Law Enforcement Assistance Administration in implementing its responsibilities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. (Pub. L. 90-351, 82 Stat. 197; Pub. L. 91-614, 84 Stat. 1881) has demonstrated that the full and equal participation of women and minority individuals in employment opportunities in the criminal justice system is a necessary component to the Safe Streets Act's program to reduce crime and delinquency in the United States.

(b) Pursuant to the authority of the Safe Streets Act and the equal employment opportunity regulations of the LEAA relating to LEAA assisted programs and activities (38 CFR 42-201, et seq., Subpart D), the following Equal Employment Opportunity Guidelines are established.

§ 42.302 Application.

(a) As used in these guidelines, "Recipient" means any state, political subdivision of any state, combination of such states or subdivisions, or any department, agency or instrumentality of any of the foregoing receiving Federal financial assistance from LEAA, directly or through another recipient, or with respect to whom an assurance of civil right compliance given as a condition of the earlier receipt of assistance is still in effect.

(b) The obligation of a recipient to formulate, implement, and maintain an equal employment opportunity pro-

gram, in accordance with this Subpart, extends to state and local police agencies, correctional agencies, criminal court systems, probation and parole agencies, and similar agencies responsible for the reduction and control of crime and delinquency.

(c) Assignments of compliance responsibility for Title VI of the Civil Rights Act of 1964 have been made by [43] the Department of Justice to the Department of Health, Education, and Welfare, covering educational institutions and general hospital or medical facilities. Similarly, the Department of Labor, in pursuance of its authority under Executive Orders 11246 and 11375, has assigned responsibility for monitoring equal employment opportunity under government contracts with medical and educational institutions, and non-profit organizations, to the Department of Health, Education, and Welfare. Accordingly, monitoring responsibility in compliance matters in agencies of the kind mentioned in this paragraph rests with the Department of Health, Education, and Welfare, and agencies of this kind are exempt from the provisions of this subpart, and are not responsible for the development of equal employment opportunity programs in accordance herewith.

(d) Each recipient of LEAA assistance within the criminal justice system which has 50 or more employees and which has received grants or subgrants of $25,000 or more pursuant to and since the enactment of the Safe Streets Act of 1963, as amended, and which has a service population with a minority representation of 3 percent or more, is required to formulate, implement and maintain an Equal Employment Opportunity Program relating to employment

practices affecting minority persons and women within 120 days after either the promulgation of these amended guidelines, or the initial application for assistance is approved, whichever is sooner. Where a recipient has 50 or more employees, and has received grants or subgrants of $25,000 or more, and has a service population with a minority representation of less than 3 percent, such recipient is required to formulate, implement, and maintain an equal employment opportunity program relating to employment practices affecting women. For a definition of "employment practices" within the meaning of this paragraph, see § 42.202(b).

(c) "Minority persons" shall include persons who are Negro, Oriental, American-Indian, or Spanish-surnamed Americans. "Spanish-surnamed Americans" means those of Latin American, Cuban, Mexican, Puerto Rican or Spanish origin. In Alaska, Eskimos and Aleuts should be included as "American Indians."

(f) For the purpose of these guidelines, the relevant "service population" shall be determined as follows:

(1) For adult and juvenile correctional institutions, facilities and programs (including probation and parole programs), the "service population" shall be the inmate or client population served by the institution, facility, or program during the preceding fiscal year.

(2) For all other recipient agencies (e.g., police and courts), the "service population" shall be the State population for state agencies, the county population for county agencies, and the municipal population for municipal agencies.

(g) "Fiscal year" means the twelve calendar months beginning July 1, and ending June 30, of the following calendar year. A fiscal year is designated by the calendar year in which it ends.

§ 42.303 Evaluation of employment opportunities.

(a) A necessary prerequisite to the development and implementation of a satisfactory Equal Employment Opportunity Program is the identification and analysis of any problem areas inherent in the utilization or participation of minorities and women in all of the recipient's employment phases (e.g., recruitment, selection, and promotion) and the evaluation of employment opportunities for minorities and women.

(b) In many cases an effective Equal Employment Opportunity Program may only be accomplished where the program is coordinated by the recipient agency with the cognizant Civil Service Commission or similar agency responsible by law, in whole or in part, for the recruitment and selection of entrance candidates and selection of candidates for promotion.

(c) In making the evaluation of employment opportunities, the recipient shall conduct such analysis separately for minorities and women. However, all racial and ethnic data collected to perform an evaluation pursuant to the requirements of this section should be cross classified by sex to ascertain the extent to which minority women or minority men may be underutilized. The evaluation should include but not necessarily be limited to the following factors:

(1) An analysis of present representation of women and minority persons in all job categories;

(2) An analysis of all recruitment and employment selection procedures for the preceding fiscal year, including such things as position descriptions, application forms, recruitment methods and sources, interview procedures, test administration and test validity, educational prerequisites, referral procedures and final selection methods, to insure that equal employment opportunity is being afforded in all job categories;

(3) An analysis of seniority practices and provisions, upgrading and promo[44]tion procedures, transfer procedures (lateral or vertical), and formal and informal training programs during the preceding fiscal year, in order to insure that equal employment opportunity is being afforded;

(4) A reasonable assessment to determine whether minority employment is inhibited by external factors such as the lack of access to suitable housing in the geographical area served by a certain facility or the lack of suitable transportation (public or private) to the workplace.

§ 42.301 Written Equal Employment Opportunity Program.

Each recipient's Equal Employment Opportunity Program shall be in writing and shall include:

(a) A job classification table or chart which clearly indicates for each job classification or assignment the number of employees within each respective job category classified by race, sex and national origin (include for example Spanish-surnamed, Oriental, and American Indian). Also, prin-

cipal duties and rates of pay should be clearly indicated for each job classification. Where auxiliary duties are assigned or more than one rate of pay applies because of length of time in the job or other factors, a special notation should be made. Where the recipient operates more than one shift or assigns employees within each shift to varying locations, as in law enforcement agencies, the number by race, sex and national origin on each shift and in each location should be identified. When relevant, the recipient should indicate the racial/ethnic mix of the geographic area of assignments by the inclusion of minority population and percentage statistics.

(b) The number of disciplinary actions taken against employees by race, sex, and national origin within the preceding fiscal year, the number and types of sanctions imposed (suspension indefinitely, suspension for a term, loss of pay, written reprimand, oral reprimand, other), against individuals by race, sex, and national origin.

(c) The number of individuals by race, sex and national origin (if available) applying for employment within the preceding fiscal year and the number by race, sex and national origin (if available) of those applicants who were offered employment and those who were actually hired. If such data is unavailable, the recipient should institute a system for the collection of such data.

(d) The number of employees in each job category by race, sex, and national origin who made application for promotion or transfer within the preceding fiscal year and the number in each job category by race, sex, and national origin who were promoted or transferred.

(e) The number of employees by race, sex, and national origin who were terminated within the preceding fiscal year, identifying by race, sex, and national origin which were voluntary and involuntary terminations.

(f) Available community and area labor characteristics within the relevant geographical area including total population, workforce and existing unemployment by race, sex, and national origin. Such data may be obtained from the Bureau of Labor Statistics, Washington, D.C., state and local employment services, or other reliable sources. Recipients should identify the sources of the data used.

(g) A detailed narrative statement setting forth the recipient's existing employment policies and practices as defined in § 42.202(b). Thus, for example, where testing is used in the employment selection process, it is not sufficient for the recipient to simply note the fact. The recipient should identify the test, describe the procedures followed in administering and scoring the test, state what weight is given to test scores, how a cut-off score is established and whether the test has been validated to predict or measure job performance and, if so, a detailed description of the validation study. Similarly detailed responses are required with respect to other employment policies, procedures, and practices used by the applicant.

(1) The statement should include the recipient's detailed analysis of existing employment policies, procedures, and practices as they relate to employment of minorities and women, (see § 42.303) and, where improvements are necessary, the statement should set forth in detail the specific steps the recipient will take for the achievement of

full and equal employment opportunity. For example, The Equal Employment Opportunity Commission, in carrying out its responsibilities in ensuring compliance with Title VII has published Guidelines on Employee Selection Procedures (29 CFR Part 1007) which, among other things, proscribes the use of employee selection practices, procedures and devices (such as tests, minimum educational levels, oral interviews and the like) which have not been shown by the user thereof to be related to job performance and where the use of such an unvalidated selection device tends to disqualify a disproportionate number of minority individuals or women for employment. [45] The EEOC Guidelines set out appropriate procedures to assist in establishing and maintaining equal employment opportunities. Recipients of LEAA assistance using selection procedures which are not in conformity with the EEOC Guidelines shall set forth the specific areas of nonconformity, the reasons which may explain any such non-conformity, and, if necessary, the steps the recipient agency will take to correct any existing deficiency.

(2) The recipient should also set forth a program for recruitment of minority persons based on an informed judgment of what is necessary to attract minority applications including, but not necessarily limited to, dissemination of posters, use of advertising media patronized by minorities, minority group contacts and community relations programs. As appropriate, recipients may wish to refer to recruitment techniques suggested in Revised Order No. 4 of the Office of Federal Contract Compliance, U.S. Department of Labor, found at 41 CFR 60-2.24(e).

(h) Plan for dissemination of the applicant's Equal Employment Opportunity Program to all personnel, applicants and the general public. As appropriate, recipients may wish to refer to the recommendations for dissemination of policy suggested in Revised Order No. 4 of the Office of Federal Contract Compliance, U.S. Department of Labor, found at 41 CFR 60-2.21.

(i) Designation of specified personnel to implement and maintain adherence to the Equal Employment Opportunity Program and a description of their specific responsibilities suggested in Revised Order No. 4 of the Office of Federal Contract Compliance, U.S. Department of Labor, found at 41 CFR 60-2.22.

§ 42.305 Record keeping and certification.

The Equal Employment Opportunity Program and all records used in its preparation shall be kept on file and retained by each recipient covered by these guidelines for subsequent audit or review by responsible personnel of the cognizant state planning agency or the LEAA. Prior to the authorization to fund new or continuing programs under the Omnibus Crime Control and Safe Streets Act of 1968, the recipient shall file a certificate with the cognizant state planning agency or LEAA regional office stating that the equal employment opportunity program is on file with the recipient. The form of the certification shall be as follows:

I, ... (person filing the application) certify that the ..... (criminal justice agency) has formulated an equal employment opportunity program in

accordance with 28 CFR 42.301, et seq. Subpart E, and and that it is on file in the Office of ..... (name), ... (address), ... (title), for review or audit by officials of the cognizant state planning agency or the Law Enforcement Assistance Administration, as required by relevant laws and regulations.

The criminal justice agency created by the Governor to implement the Safe Streets Act within each state shall certify that it requires, as a condition of the receipt of block grant funds, that recipients from it have executed an Equal Employment Opportunity Program in accordance with this subpart, or that, in conformity with the terms and conditions of this regulation no equal employment opportunity programs are required to be filed by that jurisdiction.

§ 42.306 Guidelines.

(a) Recipient agencies are expected to conduct a continuing program of self-evaluation to ascertain whether any of their recruitment, employee selection or promotional policies (or lack thereof) directly or indirectly have the effect of denying equal employment opportunities to minority individuals and women.

(b) Post award compliance reviews of recipient agencies will be scheduled by LEAA, giving priority to any recipient agencies which have a significant disparity between the percentage of minority persons in the service population and the percentage of minority employees in the agency. Equal employment program modification may be suggested by LEAA whenever identifiable referral or selection pro-

cedures and policies suggest to LEAA the appropriates of improved selection procedures and policies. Accordingly, any recipient agencies falling within this category are encouraged to develop recruitment, hiring or promotional guidelines under their equal employment opportunity program which will correct, in a timely manner, any identifiable employment impediments which may have contributed to the existing disparities.

(c) A significant disparity between minority representation in the service population and the minority representation in the agency workforce may be deemed to exist if the percentage of a minority group in the employment of the agency is not at least seventy (70) percent of the percentage of that minority in the service population.

[46] § 42.307 Obligations of recipients.

The obligation of those recipients subject to these Guidelines for the maintenance of an Equal Employment Opportunity Program shall continue for the period during which the LEAA assistance is extended to a recipient or for the period during which a comprehensive law enforcement plan filed pursuant to the Safe Streets Act is in effect within the State, whichever is longer, unless the assurances of compliance, filed by a recipient in accordance with § 42.204(a)(2), specify a different period.

§ 42.308 Noncompliance.

Failure to implement and maintain an Equal Employment Opportunity Program as required by these Guidelines shall subject recipients of LEAA assistance to the

sanctions prescribed by the Safe Streets Act and the equal employment opportunity regulations of the Department of Justice. (See 42 U.S.C. 3757 and § 42.206).

Effective date.—This Guideline shall become effective on August 31, 1973.

DEPARTMENT OF JUSTICE
Law Enforcement Assistance
Administration
EQUAL RIGHTS GUIDELINES

Effect on Minorities and Women of Minimum Height Requirements for Employment of Law Enforcement Officers

1. *Purpose.* This guideline is issued to assist in the elimination of discrimination based on national origin, sex, and race caused by the use of restrictive minimum height requirements criteria where such requirements are unrelated to the employment performance of law enforcement personnel.

2. *Scope.* The provisions of the guideline apply to all recipients of LEAA funds. This guideline is of concern to all State Planning Agencies.

3. *Background.* The use of minimum height requirements as criteria for employee selection, assignment, or similar personnel action may tend to disqualify disproportionately women and persons of certain national origins, and races. Discrimination on the ground of race, color, creed, sex, or national origin is prohibited by the Department of Justice regulations concerning employment prac-

tices of State agencies or offices receiving financial assistance extended by the Department (28 CFR Part 42, Subpart D).

4. *Requirement.* The use of minimum height requirements, which disqualifies disproportionately women and persons of certain national origins and races, such as persons of Mexican and Puerto Rican ancestry, or oriental descent, will be considered violative to this Department's regulations prohibiting employment discrimination.

5. *Exceptions.* In those instances where the recipient of Federal assistance is able to demonstrate convincingly through the use of supportive factual data such as professionally validated studies that such minimum height requirements used by the recipient is an operational necessity for designated job categories, the minimum height requirement will not be considered discriminating.

6. *Definition.* a. The term operational necessity as used in this guideline shall refer to an employment practice for which there exists an overriding legitimate operational purpose such that the practice is necessary to the safe and efficient exercise of law enforcement duties; is sufficiently compelling to override any discriminatory impact; is effectively carrying out the operational purpose it is alleged to serve; and for which there are available no acceptable alternate policies or practices which would better accomplish the operational [47] purpose advanced, or accomplish it equally well with a lesser discriminatory impact.

b. The term law enforcement as used in this guideline is defined at section 601(a) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and means all activities pertaining to crime prevention or reduction and enforcement of the criminal law.

Effective date. This Guideline shall become effective on March 9, 1973.

[48] Memorandum

Heads of Agencies, Departments,
Major Units and Other Key
Personnel

Date: February 1, 1974

Subject: STATE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM 74-2

From: Governor's Office

In September 1971, I issued an executive order to all Agency Secretaries, department directors, and employee organizations redefining the Code of Fair Practices for the State of California in a manner emphasizing equal opportunity and fair practices in all activities of the State. Since that date, agencies and departments have made commendable progress toward the development and implementation of affirmative action programs in all areas of the State's activity, especially employment.

I am pleased to announce, with the adoption of an Equal Employment Opportunity Policy and Affirmative Action Plan, the five-member Personnel Board has accepted the leadership responsibility to guide and evaluate the de-

velopment and implementation of the State's Affirmative Action/Equal Employment Opportunity Program.

To achieve the full purpose and intent of the Code of Fair Practices and State and Federal Equal Employment Opportunity Laws, all agencies and departments should develop and submit to the Personnel Board written equal employment opportunity policies and affirmative action plans by July 1, 1974, and provide progress reports thereafter. The Board will review these plans and progress reports to determine if they meet the guidelines promulgated by the Equal Opportunity compliance agencies to which the various departments of the State are responsible. The State Personnel Board has the resources and technical expertise to assist in the development of such plans and policies and the implementation and reporting of an effective State Equal Employment Opportunity Program.

Building on our accomplishments to date, I am assured that we can develop a State Equal Employment Opportunity/Affirmative Action Program which will meet the needs of all of the State's citizens and achieve the objective of maintaining California's leadership in the development of quality programs.

Sincerely,

/s/ Ronald Reagan
Ronald Reagan
Governor

Enclosure